U.S. Department of Justice
Immigration and Naturalization Service
126 Northpoint Dr.
Houston, Texas 77060

OCT 09 2002

A 76 828 558

Felicia Dyrnall Malveaux
2290 Katy Road
Beaumont, Texas 77706

NOTICE OF DENIAL

Dear Ms. Malveaux:

Reference is made to the Petitions for Alien Relative (Form 1-130) filed on behalf John Henry Adedayo Ayanbadejo on March 3, 1997 and April 17, 2001.

Matter of Brantigan, 11 I&N Dec. 493 (BIA 1966), states that the burden of proof to establish eligibility for the benefit sought lies with the petitioner.

In Matter of M, 8 I&N Dec.217, it was determined that where no bona fide husband-wife relationship was intended, the marriage is deemed invalid for immigration purposes regardless of whether it would be considered invalid under domestic law of the jurisdiction where performed.

On January 29, 2002, you were issued a "Notice of Intent to Deny Visa Petition" (intent). The Service received your response to that intent. The information that you submitted included photographs, income tax information, one "letter" and your affidavit. You failed to submit sufficient documentary evidence to overcome the intent to deny.

At the time of interview, you acknowledge that you reside in Beaumont, Texas and that your husband has been living in the New York/New Jersey area since October 2000. You acknowledged that you have never visited you husband in New

New York or New Jersey since he moved there almost two years ago. Although your husband has made trips to Houston, you have failed to provide evidence of any contact with your husband during those visits. You stated that your husband's family lives in Houston and that he frequently stayed there (not with you in Beaumont) prior to his move out of state. You provided no evidence of telephonic communication with your spouse, such as long distance telephone bills. Your "letters" to your spouse consisted of one three-sentence note stating you were forwarding income tax papers to his New York address. That letter was postmarked AFTER the interview. The evidence you have submitted fails to establish eligibility for the benefit sought. You have provided insufficient evidence that a bona fide husband-wife relationship was intended.

Therefore it is the decision of the Service to deny the petition. Based on the aforementioned, it is the decision of the Service that the beneficiary entered into a marriage with you for the purposes of circumventing immigration law. Section 204 (c) of the Immigration and Nationality Act precludes the approval of a petition when the alien enters into a marriage for the purpose of circumventing immigration law.

You may appeal this decision. You must submit an appeal to this office with a filing fee of $110.00. If you do not file an appeal within the time allowed, this decision is final. It must reach this office within thirty days from the date this notice is served. Do not send you]- appeal directly to the Board of Immigration Appeals. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Hipolito M. Acosta
Acting District Director